

REMARKS

Reconsideration of this application, as amended, is respectfully requested.

Initially, the Applicants would like to thank the Examiner for the indication that claims 2-56 are allowable.

However, the Examiner now rejects claim 1 under 35 U.S.C. § 102(b) as being anticipated by a newly cited reference, namely, U.S. Patent No. 5,557,544 to Simon et al., (hereinafter "Simon").

In response, Applicants respectfully traverse the Examiner's rejection under 35 U.S.C. § 102(b) for at least the reasons set forth below. However, independent claim 1 has been amended to clarify its distinguishing features.

Simon discloses a probe having an optical fiber to connect external light to a spectrometer (50) via a measuring head and an entrance (41) as a replaceable component (5). In addition, Simon discloses that when the replaceable component (5) is exchanged, a computer (9) updates "the time changing data" and the like in the data medium (7) of the component (5) to the actual state of the component (5).

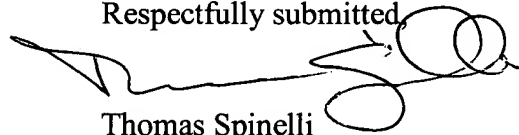
However, Simon fails to disclose or suggest recognizing "the type of the optical scanning probe" as recited in original claim 1.

Furthermore, Simon fails to disclose "a control device for controlling the scanning components in the optical scanning probe according to the type of the optical scanning probe recognized by the recognition component. Claim 1 has been amended to clarify this distinction. The amendment to claim 1 is fully supported in the original disclosure. Thus, no new matter has been entered into the disclosure by way of the amendment to claim 1.

Thus, with regard to the rejection of claim 1 under 35 U.S.C. § 102(b), an optical scanning probe system having the features discussed above and as recited in independent claim 1, is nowhere disclosed in Simon. Since it has been decided that “anticipation requires the presence in a single prior art reference, disclosure of each and every element of the claimed invention, arranged as in the claim,”¹ independent claim 1 is not anticipated by Simon. Accordingly, independent claim 1 patentably distinguishes over Simon and is allowable. Consequently, the Examiner is respectfully requested to withdraw the rejection of claim 1 under 35 U.S.C. § 102(b).

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicant’s attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,



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¹ Lindeman Maschinenfabrik GMBH v. American Hoist and Derrick Company, 730 F.2d 1452, 1458; 221 U.S.P.Q. 481, 485 (Fed. Cir., 1984).